

**State of Michigan
Department of Environmental Quality
Water Resources Division**

PUBLIC NOTICE

**PROPOSED GENERAL PERMIT CATEGORY FOR
LIMITED GREAT LAKES SHORELINE MANAGEMENT ACTIVITIES**

May 21, 2012

Pursuant to Part 303, Wetlands Protection and Part 325, Great Lakes Submerged Lands of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, the Department of Environmental Quality's (DEQ's) Water Resources Division is proposing to re-issue the General Permit (GP) category for Limited Great Lakes Shoreline Management Activities. This GP category is intended to facilitate activities for limited shoreline management along the Great Lakes coast that are expected to have only a minor impact on wetlands and the Great Lakes bottomlands and that can, therefore, be reviewed through a simplified permit application process. This GP will allow the DEQ to evaluate applications for permits without additional public noticing, thereby reducing the cost of the permit process for applicants proposing minor activities, and the costs of administering the program, while continuing to protect wetland and bottomland resources. The purpose of this public notice is to provide an opportunity for public review and comment to proposed additions and changes to the existing GP categories only. The proposed GP category can be found at www.michigan.gov/wetlands.

Written comments on the proposed General Permit Category should be sent to:

Mr. Todd Losee
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Water Resources Division
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All comments must be received by Thursday, July 5, 2012.



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



DAN WYANT
DIRECTOR

**GENERAL PERMIT CATEGORY FOR
LIMITED GREAT LAKES SHORELINE MANAGEMENT ACTIVITIES**

DRAFT

***IMPORTANT: WRITTEN AUTHORIZATION IS REQUIRED PRIOR TO COMPLETING ANY OF
THE ACTIVITIES DESCRIBED BELOW.***

Issued Under Part 303, Wetlands Protection and Part 325, Great Lakes Submerged Lands, of the
Natural Resources and Environmental Protection Act, 1994 PA 451, as Amended (NREPA)

BACKGROUND INFORMATION

PURPOSE

This General Permit (GP) category is intended to facilitate activities for limited shoreline management along the Great Lakes coast that are expected to have only a minor impact on wetlands and the Great Lakes bottomlands and that can, therefore, be reviewed through a simplified permit application process. This GP will allow the Michigan Department of Environmental Quality (MDEQ) to evaluate applications for permits without additional public noticing, thereby reducing the cost of the permit process for applicants proposing minor activities, and the costs of administering the program, while continuing to protect wetland and bottomland resources.

Please note that this GP does not define projects that will be permitted, but only those that may be considered for simplified processing.

LEGISLATIVE AUTHORITY

The MDEQ may issue a GP only for activities that are, "...similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment" (see Section 30312 of the Wetland Protection Part, and Section 32512a of the Great Lakes Submerged Lands Part). The MDEQ may authorize activities undertaken by individual property owners under the provisions of a GP without further public notice.

GEOGRAPHIC EXTENT

This GP category covers bottomlands of the entire Great Lakes shoreline (including Lake St. Clair) in Michigan below the ordinary high water mark (OHWM) of the Great Lakes and above the water's edge. This GP category does not include or authorize activities below the water's edge.

GENERAL PERMIT PROCEDURES

A person seeking authorization under this GP must submit a permit application on a form provided by the MDEQ. The MDEQ's Water Resources Division will review requests for authorization under the GP to determine whether the conditions and limitations of the GP are

met. Applications under this GP may be issued, modified, or denied. Authorization under the GP will be issued to the applicant only if it is determined that the proposed activity is in accordance with the criteria and requirements of the NREPA.

The MDEQ may require that a particular project be authorized through the individual permit process if it determines that public review would be beneficial in making a decision on the application, or if it determines that a proposed project could, in combination with other projects, result in more than minimal adverse cumulative impacts.

The Michigan Legislature has established a fee for authorization under this GP. See Section 30306 of the Wetlands Protection Part and Section 32513 of the Great Lakes Submerged Lands Part.

ACTIVITIES THAT MAY BE AUTHORIZED BY THE GENERAL PERMIT

The following activities are incorporated into this GP category:

- 1. The following activities on Great Lakes Bottomland lying below the OHWM as defined in Section 32502 and above the water's edge, in areas that are naturally free of vegetation or where all vegetation has been removed and maintained in accordance with the NREPA.** These activities are not authorized in an Environmental Area as defined in Part 323, Shorelands Protection and Management, of the NREPA or Critical Dune Areas as defined in Part 353, Sand Dunes Protection and Management, of the NREPA, and shall not violate Part 365 of the NREPA or rules promulgated under that part, or the Endangered Species Act of 1973, public law 93-205, 87 stat. 884, or rules promulgated under that Act. These activities are not authorized in areas exposed by temporary low water periods such as storm surges and seiches.
 - (a) Leveling of sand:** The relocation of sand to sand areas, including the redistribution, grading, and spreading of sand that has been deposited through wind or wave action onto upland riparian property. Alteration of the natural lakeshore contours, including excavation of basins, formation of new upland areas, and relocation of the natural shoreline location, is not authorized. Leveling of sand is not authorized in non-sand areas, such as cobble or organic soil areas.
 - (b) Grooming of sand:** Raking, dragging, or pulling metal teeth or other grooming equipment through the top four inches of sand without disturbance of or destruction of plant roots for the purpose of removing debris. Debris includes animal or fish carcasses, zebra and quagga mussel shells, dead vegetation, trash, and discarded materials of human-made origin. All collected debris shall be disposed of properly, outside of any wetland.
 - (c) Construction and maintenance of a path:** Construction of a temporary access walkway from the upland on the riparian property directly to the shoreline across swales with standing water, not exceeding six feet in bottom width and consisting of sand and pebbles obtained from the exposed, nonvegetated bottomlands or from the upland on the riparian property. This does not include grading of the pathway such that the natural contours of the land are altered, or placement of a permanent structure such as a boardwalk or dock. Construction is limited to one walkway per individual private property. Adjoining property owners are authorized to share one path, not exceeding 12 feet in bottom width, located to avoid and minimize adverse natural resource impacts.

Path construction for public access areas or commercial hotels is limited to one walkway, not exceeding 10 feet in bottom width, for every 200 feet of riparian property frontage. Public access or commercial areas with less than 400 feet of frontage may be authorized to construct one 10-foot wide pathway.

2. **The following mowing of vegetation on Great Lakes Bottomland lying below the OHWM as defined in Section 32502 and above the water's edge without disturbing soil or plant roots.** The mowing shall not violate Part 365 of the NREPA or rules promulgated under that part, or the Endangered Species Act of 1973, public law 93-205, 87 stat. 884, or rules promulgated under that Act. All collected vegetation shall be disposed of properly outside of any wetland. Thatch removal by mechanical raking or other methods that disturb the soil or plant roots is not authorized.
 - (a) **Mowing a pathway:** Mowing of vegetation for a pathway to a height of not less than four inches, limited to an area ten feet in width for the entire individual property.
 - (b) **Recreational areas:** Mowing of a recreational area not to exceed 400 square feet to a height of not less than four inches. Mowing for a recreational area shall not occur in an Environmental Area as defined by Section 32301 of the NREPA.
 - (c) **Mowing of previously mowed areas in Saginaw Bay and Grand Traverse Bay:** Mowing of vegetation in previously mowed areas on properties located within the pilot areas designated by the MDEQ under 2003 PA 14 of Saginaw Bay and Grand Traverse Bay, if the applicant can provide evidence that the mowing was conducted in accordance with the NREPA. This mowing is limited to the width of the riparian property or 100 feet, whichever is less, and to a height of not less than four inches. The designated Saginaw Bay area is defined by a line drawn from Au Sable Point in Iosco County east to Point Aux Barques in Huron County. The designated Grand Traverse Bay area is defined by a line drawn from Leelanau State Park in Leelanau County east to the Antrim/Charlevoix county line. Mowing shall not occur in an Environmental Area as defined by Section 32301 of the NREPA.
3. **Mowing of invasive or non-native species on Great Lakes Bottomland lying below the OHWM as defined in Section 32502 and above the water's edge.** Mowing of areas predominantly vegetated by non-native or invasive species (e.g., phragmites, purple loosestrife) as part of a vegetation control plan in accordance with recommendations provided by the MDEQ. "Non-native" species are plants that did not occur in Michigan prior to 1800. "Invasive" species are plants that have aggressive growth characteristics and that threaten native ecosystems by dominating the normal vegetation of an area. A description of how the proposed mowing is consistent with recommendations provided by the MDEQ must be provided as part of the application.

GENERAL LIMITATIONS AND CONDITIONS

The following general limitations and conditions will also apply to all authorizations issued under this GP:

- A. Initiation of any work on the permitted project confirms the permittee's acceptance and agreement to comply with all terms and conditions of an authorization under this permit.

- B. The permittee in exercising the authority granted by an authorization under this permit shall not cause unlawful pollution as defined by Part 31.
- C. An authorization under this permit shall be kept at the site of the work and available for inspection at all times during the duration of the project or until its date of expiration.
- D. All work shall be completed in accordance with the plans and the specifications submitted with the application and/or plans and specifications attached to the authorization.
- E. No attempt shall be made by the permittee to forbid the full and free use by the public of public waters at or adjacent to the structure or work approved.
- F. It is made a requirement of an authorization under this permit that the permittee give notice to public utilities in accordance with Act 53 of the Public Acts of 1974 and comply with each of the requirements of that act.
- G. An authorization under this permit does not convey property rights in either real estate or material; nor does it authorize any injury to private property or invasion of public or private rights; nor does it waive the necessity of seeking federal assent, all local permits, or complying with other state statutes.
- H. An authorization under this permit does not prejudice or limit the right of a riparian owner or other person to institute proceedings in any circuit court of this state when necessary to protect his or her rights.
- I. The permittee shall notify the DEQ within 1 week after the completion of the authorized activity.
- J. An authorization under this permit shall not be assigned or transferred without the written approval of the DEQ.
- K. Failure to comply with conditions of an authorization under this permit may subject the permittee to revocation of the authorization and criminal and/or civil action as cited by the specific state act, federal act, and/or rule under which this permit is granted.
- L. In issuing an authorization under this permit, the DEQ has relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of an authorization, such information and data prove to be false, incomplete, or inaccurate, the DEQ may modify, revoke, or suspend the permit, in whole or in part, in accordance with the new information.
- M. The permittee shall indemnify and hold harmless the State of Michigan and its departments, agencies, officials, employees, agents, and representatives for any and all claims or causes of action arising from acts or omissions of the permittee, or employees, agents, or representatives of the permittee, undertaken in connection with this permit. This permit shall not be construed as an indemnity by the State of Michigan for the benefit of the permittee or any other person.
- N. Noncompliance with these terms and conditions, and/or the initiation of other regulated activities not specifically authorized shall be cause for the modification, suspension, or revocation of this permit, in whole or in part. Further, the DEQ may initiate criminal and/or civil proceedings as may be deemed necessary to correct project deficiencies, protect natural resource values, and secure compliance with statutes.
- O. If any change or deviation from the permitted activity becomes necessary, the permittee shall request, in writing, a revision of the permitted activity from the DEQ. Such revision requests shall include complete documentation supporting the modification and revised plans detailing the proposed modification. Proposed modifications must be approved, in writing, by the DEQ prior to being implemented.
- P. An authorization under this permit may be transferred to another person upon written approval of the DEQ. The permittee must submit a written request to the DEQ to transfer the permit to the new owner. The new owner must also submit a written request to accept transfer. The new owner must agree, in writing, to accept all conditions of the authorization. A single letter signed by both parties that includes all of the above

information may be provided to the DEQ. The DEQ will review the request and if approved, will provide written notification to the new owner.

NEED FOR OTHER PERMITS

Issuance of authorization for these activities pursuant to this GP does not remove the need for other applicable local, state, or federal permits. **A PERMIT FROM THE UNITED STATES ARMY CORPS OF ENGINEERS IS REQUIRED FOR MOST ACTIVITIES THAT ALTER GREAT LAKES COASTAL AREAS.**

EXPIRATION DATE

This General Permit, expires on_____ unless revoked or modified prior to that date.